

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

NO. 17-CR-20406

vs.

HON. PAUL D. BORMAN

D-6 NANCY A. JOHNSON,

Defendant.

SENTENCING MEMORANDUM OF THE UNITED STATES

I. Introduction

Nancy Johnson was the second highest official in the Chrysler Department of the United Auto Workers (“UAW”) union. She betrayed the trust placed in her by the rank and file members of her union. Johnson took thousands of dollars in illegal, prohibited payments for her own personal benefit from Fiat Chrysler Automobiles US LLC (“FCA” or “Fiat Chrysler”). In addition, at the direction of more senior UAW officials, Johnson directed tens of thousands of dollars of prohibited payments from Fiat Chrysler for the personal benefit of those senior UAW officials and for the personal benefit of other UAW officials.

Johnson’s criminal activity in betraying tens of thousands of UAW members and their families was serious, and it is deserving of a serious punishment. The Court

needs to deter other union officials from engaging in similar misconduct. In addition, however, the Court's sentence should reflect Johnson's acceptance of responsibility and her sincere remorse.

Johnson has been cooperating in an ongoing investigation with federal authorities over the past six months. However, at this point, her cooperation is incomplete, and the government is not yet in a position to bring a motion on her behalf for a reduction in sentence under Section 5K1.1. The Court should be aware for purposes of this sentencing hearing that Johnson has been diligent in her cooperation with law enforcement, and that it is not her fault that her cooperation is not yet complete.

II. Analysis of Sentencing Factors

A. Sentencing Guideline Range

The parties and the Probation Officer are in agreement as to the correct sentencing guideline range applicable in this case. In the Rule 11 agreement, the parties agreed that the amount of prohibited Taft-Hartley payments for which Johnson is responsible is over \$40,000, for a 6-level enhancement. As a result, Johnson's sentencing guideline range is 12 to 18 months. Under the terms of the plea agreement, the possible sentence of imprisonment was capped at 18 months under Federal Rule of Criminal Procedure 11(c)(1)(C).

B. Seriousness of the Offense

The Labor Management Relations Act of 1947, better known as the Taft-Hartley Act, sought to deter and punish the real danger that union officials, who are supposed to represent the best interests of their rank and file members, could be corrupted by corporations seeking to buy labor peace or bribe their way to concessions at the bargaining table. This investigation and prosecution has revealed that there was a culture of corruption in the senior leadership of the United Auto Workers union. Leaders of the UAW viewed the National Training Center as a mechanism to take apparently unlimited and illegal payments from Fiat Chrysler for their own personal benefit, for the benefit of the union itself, and for their own lavish entertainment.

Through her leadership skills and political savvy within the UAW, Johnson reached the highest levels of the UAW's Chrysler Department. She became enmeshed in a culture of corruption where acceptance of lavish entertainment and personal freebies, all paid for by the car company, was the rule rather than the exception. As a top leader of the UAW, Johnson should have been dedicated to improving the working lives and conditions of the tens of thousands of UAW members. Johnson should have been ensuring that the money made available for the

purpose of training and health and safety through the National Training Center were used for their intended purpose. Instead, Johnson chose to ignore her fiduciary responsibilities and her sacred trust to the rank and file membership and help direct tens of thousands of dollars in dedicated training funds to the corrupt personal use of other more senior UAW officials. Along the way, Johnson took advantage of her position to use her NTC credit card for thousands of dollars in personal purchases. She also enjoyed the lavish dining and entertainment that came with her position as the second highest official in the UAW's Chrysler Department.

An example of the wrongdoing in this conspiracy sought to be blocked by the Taft-Hartley Act occurred in the summer of 2015. At that time, the UAW was set to negotiate a new collective bargaining agreement with Fiat Chrysler. The UAW's senior leadership and its national negotiating committee started off negotiation season with a lavish meal on July 14, 2015 at the London Chop House in Detroit for senior UAW leadership. There were no FCA executives present at the meal, and it had nothing whatsoever to do with the joint UAW/FCA National Training Center. However, senior UAW officials directed Johnson and another UAW official to use their NTC credit cards to pay for an extravagant meal for the UAW officials. Johnson used her NTC credit card to pay for cigars and liquor at the London Chop House costing \$800.30. Another UAW official used his NTC credit card to pay

\$7,694.07 for the sumptuous meal at the chop house. Johnson and the other UAW official acted at the direction of more senior UAW leaders. All of the \$8,494.37 used to pay for the meal, liquor, and cigars at the London Chop House came from Fiat Chrysler by way of the National Training Center.

After enjoying their feast at the chop house courtesy of Fiat Chrysler, senior UAW leaders then sat down with FCA executives to negotiate a new collective bargaining agreement. After a new agreement was negotiated that summer, senior UAW officials then directed that yet another luxurious meal for senior UAW officials take place at the London Chop House on September 17, 2015. Again, no FCA executives were present, and the purpose of the meal had nothing to do with the National Training Center. Again, however, senior UAW leaders directed Johnson to use her NTC credit card to pay \$6,912.81 for liquor and food at the chop house. Again, all of the money used to pay for the lavish meal came from Fiat Chrysler through the NTC. Following the negotiation of the collective bargaining agreement between the UAW and FCA celebrated by UAW leaders at the chop house, the rank and file of the union voted down the agreement at the end of September 2015. This was the first time the rank and file had voted down a proposed collective bargaining agreement with Fiat Chrysler or its predecessor companies in more than twenty years.

Given the chain of circumstances set forth above, the seriousness of the criminal conspiracy stands out. The very leadership who were supposed to be zealously negotiating in the best interests of the rank and file membership were instead enjoying lavish meals paid for by the car company with whom they were negotiating. These facts can only serve to undermine the confidence of rank and file members in the good faith of their leadership who negotiated on their behalf with FCA executives, all while feasting on more than \$15,000 in filets, cigars, and liquor paid for by that car company. These corrosive and poisoning circumstances are exactly what the Taft-Hartley Act was intended to avoid.

C. Respect for the Law and Just Punishment

The Court's sentence for Johnson's crime needs to promote respect for the law and impose just punishment for her misconduct. Johnson was a high-level UAW official, and she intentionally acted to violate federal law for her own personal benefit and for the benefit of even more senior UAW officials. Over 45,000 hourly employees for FCA were represented by the UAW during the period of the conspiracy. These men and women believed that their union leaders were looking out for their best interests and negotiating in good faith, not double dealing them for personal gain. Through their involvement in this criminal conspiracy, however, Johnson and other senior UAW leaders were accepting corrupt payments from FCA

and its executives. It is difficult to calculate the harm that resulted to the grievance process, the bargaining process, and labor relations generally. There is no doubt, however, about the need to impose punishment for the wrongdoing and to vindicate the rule of law in the face of such long-standing and extensive criminal conduct.

In Johnson's case, part of just punishment is a recognition of sincere acceptance of responsibility and remorse. Johnson has openly and completely accepted responsibility for her involvement in the culture of corruption which was, at least, the UAW's Chrysler Department. Furthermore, Johnson's acceptance of responsibility was not just limited to the thousands of dollars in personal expenses she accepted, but also included the wider aspects of the conspiracy reflected in the gross misconduct of other, more senior UAW officials. The Court should take into account Johnson's sincere acceptance of responsibility in determining an appropriate sentence.

D. Deterrence

Millions of Americans are members of labor unions. They depend on the leadership of their unions to act zealously in the best interests of the membership and their families. Given the importance of the integrity of good faith and honest-dealing in labor-management negotiations, general deterrence is a critical component of the Court's sentence in this case. Senior union officials need to know

that labor corruption will be punished. They need to know that they occupy positions of trust over their members and their families. Union leaders must conduct themselves at the highest level of honesty, integrity, and transparency. Union leaders in this city and across the country are watching this case, and the Court can instruct those union officials with the knowledge that union officials who accept or facilitate illegal payments from employers will receive significant punishment.

III. Conclusion

For two years, Johnson took advantage of her position as a senior UAW official in order to take thousands of dollars in illegal payments from Fiat Chrysler. Johnson willingly participated and acted at the direction of more senior UAW officials in order to facilitate tens of thousands of dollars in illegal payments from Fiat Chrysler. During the conspiracy, the UAW's FCA/Chrysler Department was riddled with corruption, and it was fatally compromised in its ability to represent the best interests of the UAW's members and their families. Instead of zealously pursuing union grievances and health and safety issues, senior officials of the UAW sought to line their own pockets with money and things of value provided to them by Fiat Chrysler.

To her credit, Johnson recognized her wrongdoing and accepted responsibility for her criminal activity. Beyond just accepting responsibility, however, Johnson

has acted to cooperate with the government's investigation so as to rectify the corruption. Although her cooperation is not yet complete so as to justify a downward departure motion, Johnson's efforts towards cooperation can be considered by the Court in measuring her acceptance of responsibility and remorse. Under all of the circumstances, the Court should sentence Johnson at the low end of the guideline range of 12 months of imprisonment so as to achieve the goals of Section 3553(a).

The government also requests a six-month delay in the start date of her sentence so that she can continue to cooperate in the investigation.

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Dated: December 12, 2018

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2018, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

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